



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R05-OAR-2015-0009; EPA-R05-OAR-2015-0314; FRL-9946-80-  
Region 5]**

**Air Plan Approval; Illinois; NAAQS Updates**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving revised rules submitted by the State of Illinois as State Implementation Plan (SIP) revisions. The submitted rules update Illinois' ambient air quality standards to include the 2012 primary National Ambient Air Quality Standard (NAAQS) for fine particulate matter (PM<sub>2.5</sub>), add EPA-promulgated monitoring methods, and address the "sunset provisions" in our regulations. In addition, the revised rules contain the timing requirements for the "flagging of exceptional events" and the submitting of documentation supporting the determination of exceptional events for the 2012 primary annual PM<sub>2.5</sub> standard.

**DATES:** This direct final rule will be effective **[insert date 60 days after publication in the Federal Register]**, unless EPA receives adverse comments by **[insert date 30 days after publication in the Federal Register]**. If adverse comments are received by EPA, EPA will publish a timely withdrawal of the

direct final rule in the Federal Register informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R05-OAR-2015-0009 or EPA-R05-OAR-2015-0314 at <http://www.regulations.gov> or via email to [Aburano.Douglas@epa.gov](mailto:Aburano.Douglas@epa.gov). For comments submitted at [Regulations.gov](http://www.Regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](http://www.Regulations.gov). For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the "For Further Information Contact" section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Edward Doty, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6057, [Doty.Edward@epa.gov](mailto:Doty.Edward@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

- I. When and why did the State make these submittals?
- II. What are the State rule revisions?
  - A. April 23, 2015, Submittal - Rule Revision Group R14-06
  - B. December 18, 2014, Submittal - Rule Revision Group R14-17
- III. Did the State hold public hearings for these submittals?
- IV. What is EPA's analysis of the State's submittals?
- V. What action is EPA taking?
- VI. Incorporation by reference
- VII. Statutory and Executive Order reviews

**I. When and why did the State make these submittals?**

Section 109 of the Clean Air Act (CAA) requires EPA to establish national primary (protective of human health) and secondary (protective of human welfare) air quality standards for pollutants for which air quality criteria have been issued

under Section 108 of the CAA (the criteria pollutants<sup>1</sup>).

Individually and collectively these standards are referred to as NAAQS. Section 109(d)(1) of the CAA requires EPA to review, and if necessary, based on accumulated health and welfare data, to revise each NAAQS every five years. If a NAAQS is revised, states whose rules include state air quality standards may revise their rules to address the revised NAAQS and associated monitoring requirements, and submit them to EPA as SIP revision requests. See, e.g., 415 ILCS 5/10(H).

On December 18, 2014, the Illinois Environmental Protection Agency (IEPA) submitted to EPA for approval as SIP revisions updates to the methods used by Illinois to monitor air quality for several NAAQS. These updates correspond to EPA's revised monitoring methods promulgated during the period of July 1, 2013, through December 31, 2013. The Illinois Pollution Control Board (IPCB) adopted these rule revisions on June 5, 2014, as rule revision group R14-17.

On April 23, 2015, IEPA submitted to EPA for approval as SIP revisions an additional update to include the 2012 primary annual and 24-hour  $PM_{2.5}$  NAAQS and a provision incorporating by

---

<sup>1</sup> The criteria pollutants are ozone ( $O_3$ ), nitrogen oxides (represented by nitrogen dioxide ( $NO_2$ )), sulfur oxides (represented by sulfur dioxide ( $SO_2$ )), carbon monoxide (CO), particulate matter (represented by total suspended particulates (TSP), particulates ( $PM_{10}$ ), and fine particulates ( $PM_{2.5}$ )), and lead (Pb). Note that Illinois also has air quality standard and monitoring rules for "coarse particulate matter" ( $PM_{2.5-10}$ ), although this is not a criteria pollutant and is generally considered to be included in  $PM_{10}$ .

reference EPA-promulgated monitoring methods. These rule updates correspond to the NAAQS and monitoring methods promulgated by EPA during the period of January 1, 2013, through June 30, 2013, and on July 3, 2013, and August 5, 2013. This state submittal also addressed the "sunset provisions" of 40 CFR 50.4(e), finding that the 1971 NAAQS for sulfur dioxide (SO<sub>2</sub>) no longer applies to the Lemont and Pekin areas in Illinois. Finally, the revised rules contain the timing requirements for the "flagging of exceptional events" and the submitting of documentation supporting the determination of exceptional events for the 2012 primary annual PM<sub>2.5</sub> standard. The IPCB adopted these rule revisions on September 5, 2013, as rule revision group R14-6.

## **II. What are the State rule revisions?**

### **A. April 23, 2015, Submittal - Rule Revision Group R14-06**

The rule revisions contained in the April 23, 2015 submittal are summarized below.

#### **35 IAC 243.107. Reference Conditions**

Illinois amended this section to apply applicable monitoring requirements to the 2012 primary annual and 24-hour PM<sub>2.5</sub> NAAQS, which Illinois codified at 35 IAC 243.120(d). Volume 35 of the Illinois Administrative Code section 243.107 (35 IAC 243.107) sets forth the reference air temperature and reference pressure measurements to determine air quality

concentrations of monitored air pollutants, and mirrors the requirements of title 40 of the Code of Federal Regulations (CFR) 50.3. Among other things, this section requires that measurements of PM<sub>2.5</sub> must be reported based on actual ambient air volume measured at actual temperature and pressure at the monitoring site. See also the discussion of 35 IAC 243.120(d), below.

### **35 IAC 243.108. Incorporations by Reference**

Illinois updated 35 IAC 243.108 to incorporate by reference the 2013 versions of appendices A-1, A-2, B, C, D, F, G, H, I, J, K, L, N, O, P, Q, R, S, and T of 40 CFR part 50. These appendices contain the reference monitoring methods for and the "interpretation" of (i.e., data handling conventions and computations) the ambient standards for the criteria air pollutants.

EPA made two changes in the 2013 versions of these appendices relative to the 2012 versions. First, EPA revised the appendix G reference method for the determination of lead in suspended particulate matter (78 FR 40000, July 3, 2013). Second, EPA revised appendix N for the data handling conventions and computations necessary for determining when the primary and secondary NAAQS for PM<sub>2.5</sub> are met. 78 FR 3086, 3277-3281 (January 15, 2013). Illinois' rule revisions incorporate by reference these amended CFR appendices.

Additionally, Illinois references an August 5, 2013, (78 FR 47191) EPA Federal Register document as revising appendix N of 40 CFR part 50. However, EPA's August 5, 2013 Federal Register document establishes area designations for the 2010 SO<sub>2</sub> primary NAAQS, and does not address or relate to appendix N. Therefore, this rule revision contains an incorrect reference to EPA rulemaking, and is further discussed in Section IV, below.

**35 IAC 243.120. PM<sub>10</sub> and PM<sub>2.5</sub>**

Illinois added Subsection (d) to incorporate EPA's 2012 primary annual and 24-hour NAAQS for PM<sub>2.5</sub>. These revised PM<sub>2.5</sub> standards include an annual average level of 12 micrograms per cubic meter and a 24-hour average level of 35 micrograms per cubic meter. See 78 FR 3086 (January 15, 2013).

Consistent with 40 CFR 50.13, this section also requires that the revised PM<sub>2.5</sub> standards be measured by either a Federal Reference Method (FRM) based on appendix L of 40 CFR part 50, incorporated by reference in 35 IAC 243.108, or a Federal Equivalent Method (FEM) designated by EPA in accordance with 40 CFR part 53 and listed in EPA's "List of Designated Reference and Equivalent Methods," which is also incorporated by reference in 35 IAC 243.108.<sup>2</sup> See

---

<sup>2</sup> The "List of Designated Reference and Equivalent Methods" is an EPA web page that lists all FRMs and FEMs by pollutant and documents the Federal rulemakings that promulgated the monitoring methods. Other than the Federal Register notices for these rulemakings, it is the only comprehensive source of FEMS designated by EPA.

<http://www3.epa.gov/ttnamti1/files/ambient/criteria/reference-equivalent-methods-list.pdf>.

### **35 IAC 243.122. Sulfur Oxides (Sulfur Dioxide)**

Illinois amended the IPCB Board Note in subsection (a)(5) to address the "sunset provisions" in 40 CFR 50.4(e). Under 40 CFR 50.4(e), the 1971 primary annual and 24-hour NAAQS for SO<sub>2</sub> no longer apply to the Lemont and Pekin areas, effective October 4, 2014, because: (1) one year has passed since EPA designated these areas as nonattainment for the 2010 primary 1-hour SO<sub>2</sub> NAAQS, effective October 3, 2013; (2) these areas were not designated as nonattainment for the 1971 SO<sub>2</sub> NAAQS as of June 22, 2010; and (3) there has not been a SIP call for the 1971 SO<sub>2</sub> NAAQS for these areas. See 75 FR 47191 (August 5, 2013). The 1971 SO<sub>2</sub> NAAQS continues to apply for other areas in Illinois until these areas meet the sunset provisions specified in 40 CFR 50.4(e).

### **35 IAC 243.TABLE A. Schedule of Exceptional Event Flagging and Documentation Submission for New or Revised NAAQS**

Illinois has amended Table A to add the flagging deadlines by year for the 2012 annual PM<sub>2.5</sub> standard adopted in 2012 and promulgated on January 15, 2013 (78 FR 3086). For PM<sub>2.5</sub> data collected in 2010 and 2011, the exceptional events were required to be flagged and described by July 1, 2013, and supported by complete documentation by December 12, 2013. For PM<sub>2.5</sub> data

collected in 2012, the exceptional events were required to be flagged and described by July 1, 2013, and supported by complete documentation by December 12, 2013. For PM<sub>2.5</sub> data collected in 2013, the exceptional events were required to be flagged and described by July 1, 2014, and supported by complete documentation by August 1, 2014. The flagging and demonstration submittal deadlines are the same as the deadlines provided in Table 1 in 40 CFR 50.14.

Table A lists the deadlines for exceptional event flagging and documentation of such flagging by pollutant standard. Under 40 CFR 50.14, a state may request that EPA exclude data showing violations or exceedances of the NAAQS from air quality determinations if the state can demonstrate to EPA's satisfaction that these violations or exceedances were due to exceptional events unlikely to reoccur and cause additional violations of the NAAQS at any monitoring site. Where such an event has occurred, the state may flag air quality data affected by the event and request that EPA approve the exclusion of these data from further air quality determinations, including designation of nonattainment areas and assessment of air quality data used for purposes of redesignation to attainment. The criteria for approval of exceptional event exclusion are given in 40 CFR 50.14(b) and the schedule and procedures for data flagging by the state are discussed in 40 CFR 50.14(c).

**B. December 18, 2014, Submittal – Rule Revision Group R14-17**

The rule revisions contained in the December 18, 2014, submittal are summarized below.

**35 IAC 243.108. Incorporations by Reference**

Illinois revised this section to incorporate by reference EPA's updated "List of Designated Reference and Equivalent Methods" from June 27, 2013, to December 17, 2013. On December 17, 2013, EPA issued an updated version of the "List of Designated Reference and Equivalent Methods" that includes five new FEMs for monitoring of PM<sub>10</sub>, PM<sub>2.5-10</sub>, PM<sub>2.5</sub>, and oxides of nitrogen (NO<sub>x</sub>) promulgated by EPA. See 78 FR 67360 (November 12, 2013). More specifically, EPA promulgated the following FEMs: (1) for PM<sub>2.5-10</sub>, Automated Equivalent Method EQPM-1013-207 ("Thermo Scientific TEOM<sup>®</sup> 1405-Dichotomous Ambient Particulate Monitor with FDMS"); (2) for PM<sub>10</sub>, Automated Equivalent Method EQPM-1013-208 ("Thermo Scientific TEOM<sup>®</sup> 1405-Dichotomous Ambient Particulate Monitor with FDMS"); (3) for PM<sub>2.5</sub>, Automated Equivalent Method EQPM-1013-209 ("Met One BAM-1022 Real Time Beta Attenuation Mass Monitor-Outdoor PM<sub>2.5</sub> FEM Configuration") and Automated Equivalent Method EQNA-1013-210 ("Environment S.A. Model MP101M PM<sub>2.5</sub> Beta Attenuation Monitor"); and (4) for NO<sub>x</sub>, Automated Equivalent Method EQNA-1013-210 ("Environment S.A. Model AS32M cavity attenuated phase shift spectroscopy Nitrogen Dioxide Analyzer"). Illinois also added a statement to 35 IAC

243.108 that the incorporation by reference of EPA's promulgated monitoring methods "does not include USEPA methods approvals that occurred after December 17, 2013."

**III. Did the State hold public hearings for these submittals?**

Illinois held a public hearing for the rule changes discussed in the December 18, 2014, submittal (R14-17) on May 7, 2014. Illinois held a public hearing for the rule revisions discussed in the April 23, 2015, submittal (R14-6) on October 31, 2013. The state received one comment for the R14-6 rule revisions in support of adoption of the proposed rule revisions.

**IV. What is EPA's analysis of the State's submittals?**

EPA finds the state's requested SIP revisions to be acceptable because the state's rule revisions make the state's air quality standards and associated monitoring requirements identical-in-substance to EPA's promulgated NAAQS and monitoring methods, as revised through December 17, 2013.

Additionally, EPA finds that the specified exceptional event flagging and demonstration submittal deadlines are acceptable because they are consistent with the deadlines in 40 CFR 50.14.

EPA also agrees with Illinois' application of the "sunset provisions" in 40 CFR 50.4(e) to the Lemont and Pekin areas. EPA has designated the Lemont and Pekin areas as nonattainment for the 2010 SO<sub>2</sub> NAAQS, which means that Illinois must submit a

regulation for SIP approval that meets Federal requirements and that provides for attainment of the 2010 SO<sub>2</sub> NAAQS in these areas no later than October 4, 2018. The 1971 SO<sub>2</sub> NAAQS no longer applies to the Lemont and Pekin areas because EPA designated the Lemont and Pekin areas as nonattainment for the 2010 SO<sub>2</sub> NAAQS, these areas were not designated as nonattainment for the 1971 SO<sub>2</sub> NAAQS as of June 22, 2010, and there has not been a SIP call for the 1971 SO<sub>2</sub> NAAQS. See 78 FR 47192.

Finally, as discussed above, the state's rule revisions to 35 IAC 243.108 incorrectly cite an August 5, 2013 EPA rulemaking at 78 FR 47191 as amending appendix N to 40 CFR part 50. Appendix N sets forth the data handling and computational requirements needed to demonstrate compliance with the 2012 PM<sub>2.5</sub> NAAQS. The August 5, 2013, EPA rulemaking establishes area designations for the 2010 SO<sub>2</sub> NAAQS, but does not amend appendix N to 40 CFR part 50. Although this citation is incorrect, we are still approving the submission because Illinois has also incorporated by reference the 2013 version of appendix N to 40 CFR part 50 at 35 IAC 243.108. Appendix N, as codified in the CFR, contains the reference monitoring methods for SO<sub>2</sub> under the 2010 NAAQS and does not contain a citation to the August 5, 2013, EPA rulemaking. Therefore, it is unlikely that the public would be confused when determining the applicable data handling and computational requirements to demonstrate compliance with

the 2012 PM<sub>2.5</sub> NAAQS. Illinois should correct this incorrect citation in a subsequent rule revision, but it does not appear to present any implementation or enforcement issues for the state or EPA.

#### **V. What action is EPA taking?**

EPA is approving the submitted rule revisions as revisions of the Illinois SIP. Specifically, we are approving 35 IAC sections 243.107, 243.108, 243.120, 243.122, and 243.Table A revised as discussed above, and we are incorporating by reference these revised rules into the Illinois SIP.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this Federal Register publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse written comments are filed. This rule will be effective **[insert date 60 days after the date of publication in the Federal Register]** without further notice unless we receive relevant adverse written comments by **[insert date 30 days after the date of publication in the Federal Register]**. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final

rule based on the proposed action. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that, if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. If we do not receive any comments, this action will be effective **[insert date 60 days after the date of publication in the Federal Register]**.

#### **VI. Incorporation by reference**

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the Illinois Regulations described in the amendments to 40 CFR part 52 set forth below. EPA has made, and will continue to make, these documents generally available electronically through [www.regulations.gov](http://www.regulations.gov) and/or in hard copy at the appropriate EPA office (see the ADDRESSES section of this preamble for more information).

#### **VII. Statutory and Executive Order reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR

52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045

(62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report,

which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication of this document in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of this Federal Register, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and

address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide.

Dated: May 10, 2016.

Robert A. Kaplan,  
Acting Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

2. Section 52.720 is amended by adding paragraph (c) (208) to read as follows:

**§ 52.720 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(208) On December 18, 2014, and April 23, 2015, Illinois submitted amendments to its State Implementation Plan at 35 Illinois Administrative Code part 243, which updates Illinois air quality standards to reflect National Ambient Air Quality Standards promulgated by EPA through December 17, 2013, and incorporates Federal test procedures for these pollutants.

(i) Incorporation by reference. (A) Illinois Administrative Code Title 35: Environmental Protection; Subtitle B: Air Pollution; Chapter I: Pollution Control Board; Subchapter I: Air Quality Standards And Episodes; Part 243: Air Quality Standards; Sections 243.107 Reference Conditions, 243.120 PM<sub>10</sub> and PM<sub>2.5</sub>, 243.122 Sulfur Oxides (Sulfur Dioxide), and 243.TABLE A Schedule of Exceptional Event Flagging and Documentation Submission for New or Revised NAAQS, effective November 27, 2013.

(B) Illinois Administrative Code Title 35: Environmental Protection; Subtitle B: Air Pollution; Chapter I: Pollution Control Board; Subchapter I: Air Quality Standards And Episodes; Part 243: Air Quality Standards; Section 243.108 Incorporation by Reference, effective June 9, 2014.

[FR Doc. 2016-13700 Filed: 6/9/2016 8:45 am; Publication Date: 6/10/2016]